

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF NEW YORK

JAMEL PORTIS,

Petitioner,

v.

9:16-CV-0290
(GTS/ATB)

MICHAEL KIRKPATRICK, Superintendent,
Clinton Correctional Facility,

Respondent.

APPEARANCES:

JAMEL PORTIS, 12-A-1694

Petitioner, *Pro Se*
Clinton Correctional Facility
P.O. Box 2002
Dannemora, New York 12929

OF COUNSEL:

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Counsel for Respondent
120 Broadway
New York, New York 10271

ALYSON J. GILL, ESQ.
Assistant Attorney General

GLENN T. SUDDABY, Chief United States District Judge

DECISION and ORDER

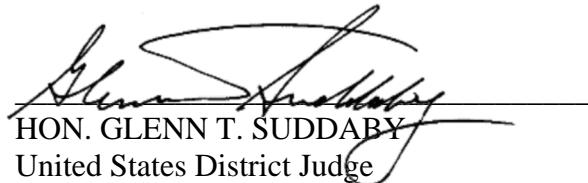
Currently before the Court, in this *habeas corpus* proceeding filed *pro se* by Jamel Portis (“Petitioner”) pursuant to 28 U.S.C. § 2254 arising from 2012 conviction for Second Degree Criminal Conspiracy in Albany County Supreme Court, is a Report-Recommendation dated October 12, 2016, of United States Magistrate Judge Andrew T. Baxter recommending that Petitioner’s Petition be denied and dismissed, and that a certificate of appealability not issue. (Dkt. No. 19.) Petitioner has not filed an objection to the Report-Recommendation and the time in which to do so has expired. (*See generally* Docket Sheet.) After carefully reviewing all of the

papers in this action, the Court can find no clear error¹ in Magistrate Judge Baxter's Report-Recommendation: Magistrate Judge Baxter employed the proper legal standards, accurately recited the facts, and correctly applied the law to those facts. (Dkt. No. 19, at Part II-IV.) As a result, the Court accepts and adopts Magistrate Judge Baxter's Report-Recommendation in its entirety for the reasons stated therein.

ACCORDINGLY, it is

ORDERED that Magistrate Judge Baxter's Report-Recommendation (Dkt. No. 19) is **ACCEPTED** and **ADOPTED** in its entirety; and it is further
ORDERED that the Petition (Dkt. No. 1) is **DENIED** and **DISMISSED**; and it is further
ORDERED that a certificate of appealability not issue with respect to any of the claims set forth in the Petition, because Petitioner has not made a "substantial showing of the denial of a constitutional right" pursuant to 28 U.S.C. § 2253(c)(2).

Dated: November 17, 2016
Syracuse, New York



HON. GLENN T. SUDDABY
United States District Judge

¹ When no objection is made to a report-recommendation, the Court subjects that report-recommendation to only a clear error review. Fed. R. Civ. P. 72(b), Advisory Committee Notes: 1983 Addition. When performing such a "clear error" review, "the court need only satisfy itself that there is no clear error on the face of the record in order to accept the recommendation." *Id.*; see also *Batista v. Walker*, 94-CV-2826, 1995 WL 453299, at *1 (S.D.N.Y. July 31, 1995) (Sotomayor, J.) ("I am permitted to adopt those sections of [a magistrate judge's] report to which no specific objection is made, so long as those sections are not facially erroneous.") (internal quotation marks omitted).